

### **Remarks/Arguments**

Claims 21-40 are pending in this application, and are rejected in the Office Action of June 18, 2010. No claim amendments are presented herein. However, a listing of the pending claims in the application accompanies this response for the Examiner's convenience.

### **Re: Patentability of Claims 21, 23-25, 28, 30-32, 35 and 37-38**

Claims 21, 23-25, 28, 30-32, 35 and 37-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0194599 by Mountain (hereinafter, "Mountain") in view of U.S. Patent No. 6,536,041 issued to Knudson et al. (hereinafter, "Knudson"). Applicants respectfully traverse this rejection for at least the following reasons.

Applicants first note that independent claim 21 recites:

"A method for operating a television apparatus, the method comprising steps of:

requesting, via said television apparatus, first program guide data; initiating, via said television apparatus, acquisition of said first program guide data in response to said request, wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data; and

enabling, via said television apparatus, display of a banner including information for a future program in response to one of said first program guide data and said second program guide data." (emphasis added)

As indicated above, independent claim 21 recites a method for operating a television apparatus that includes the receipt and display of program guide data. According to the claimed invention, program guide data may be received by the television apparatus in at least two different ways, namely, through (i) a "pull" process in which program guide data is acquired by the television apparatus in response to a request for such program guide data from the television apparatus, and (ii) a "push" process in which a broadcaster provides program guide data to the television apparatus

without being requested by the television apparatus. One notable feature of the claimed invention, is that a preference or priority is placed on program guide data received via a "push" process over program guide data received via a "pull" process. That is, according to the claimed invention, the television apparatus initiates acquisition of first program guide data in response to a request (i.e., a "pull" process). However, if a broadcaster provides second program guide data to the television apparatus without being requested by the television apparatus (i.e., a "push" process) while the television apparatus is in the process of acquiring the first program guide data, the television apparatus uses the second program guide data instead of the first program guide data. In this manner, the claimed invention places a preference or priority on program guide data received via a "push" process over program guide data received via a "pull" process. Independent claims 28 and 35 recite subject matter similar to independent claim 21.

Neither Mountain nor Knudson, whether taken individually or in combination, discloses or suggests each and every feature of independent claims 21, 28 and 35. On page 3 of the Office Action dated June 18, 2010, the Examiner ostensibly admits that the primary reference, Mountain, fails to disclose the aforementioned underlined feature of the claimed invention (i.e., the "initiating" step of claim 1). In an attempt to remedy this admitted deficiency of Mountain, the Examiner relies on Knudson, and specifically cites column 2, lines 44-56 and column 13, lines 17-48, which state:

"Updated program schedule information may be provided to the program guide implemented on the user television equipment or other platform as part of the real-time data stream from the source of real-time data. This data distribution path is particularly suitable for program listings updates of the type that might naturally occur at the source of real-time data. For example, if the scheduled time for a game changes due to a weather delay, information concerning the delay may be most readily obtained at the source of real-time data. Because the game delay affects the scheduled broadcast time of that game, the game delay is of the type of program listings data that may be provided to the program guide as part of the real-time data stream." (see column 2, lines 44-56), and

"As shown in FIG. 11, in these situations data sources 30 provide live event data and updated program listings information to television distribution facility 26 either directly as shown by solid line 31 or indirectly via main facility 22 as shown by dotted line 33. Television distribution facility 26 also receives program listings data from main facility 22 that has not been updated with information from data sources 30. Television distribution facility 26 provides the program listings data, the live event data, and the updated program listings information to the program guide (e.g., the program guide implemented on user television equipment 48). The program listings data and the updated program listings information is stored by the program guide in the database maintained by the program guide (e.g., database 53). The live event data may also be stored in the database maintained by the program guide if desired. If desired, the program guide may be based on a client-server architecture and the database maintained by the program guide may be located at television distribution facility 26.

Steps involved in distributing updated program listings as part of the real-time data distributed from real-time data sources 30 are shown in FIG. 12. At step 180, the updated program listings information is distributed to the program guide as part of the live event data stream. At step 182, the database maintained by the program guide (e.g., database 53 of FIG. 1) is updated using the updated program listings information. At step 184, the program guide uses the updated program listings data for functions such as displaying program listings, scheduling program recordings, setting reminders, allowing the purchase of pay-per-view events, etc." (see column 13, lines 17-48)

As indicated above, the cited passages of Knudson generally discuss aspects related to the distribution of updated program listings in a program guide system. However, Knudson nowhere discloses or suggests, *inter alia*, the aforementioned claimed feature wherein a preference or priority is placed on program guide data received via a "push" process over program guide data received via a "pull" process (i.e., "wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data" as recited by independent claim 21 (and similarly recited by independent claims 28 and 35)). Accordingly, Knudson is unable to remedy the aforementioned admitted deficiency of Mountain. As such, even if Mountain and Knudson are combined, as proposed, the

resulting combination still does not disclose or suggest each and every feature of independent claims 21, 28 and 35.

Therefore, for at least the foregoing reasons, Applicants submit that claims 21, 23-25, 28, 30-32, 35 and 37-38 are patentable over the proposed combination of Mountain and Knudson, and withdrawal of the rejection is respectfully requested.

**Re: Patentability of Claims 22, 29 and 36**

Claims 22, 29 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mountain in view Knudson, and further in view of U.S. Patent Publication No. 2004/0078817 by Horowitz et al. (hereinafter, "Horowitz"). Applicant respectfully traverses this rejection for at least the following reasons.

Horowitz is unable to remedy the deficiencies of Mountain and Knudson pointed out above in connection with independent claims 21, 28 and 35 (from which claims 22, 29 and 36 respectively depend). In particular, like Mountain and Knudson, Horowitz also fails to disclose or suggest, *inter alia*, the claimed feature of "wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data" as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

Therefore, for at least the foregoing reasons, Applicants submit that claims 22, 29 and 36 are patentable over the proposed combination of Mountain, Knudson and Horowitz, and withdrawal of the rejection is respectfully requested.

**Re: Patentability of Claims 26, 33 and 39**

Claims 26, 33 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mountain in view of Knudson and Horowitz, and further in view of U.S. Patent No. 6,396,531 issued to Gerszberg (hereinafter, "Gerszberg"). Applicant respectfully traverses this rejection for at least the following reasons.

Gerszberg is unable to remedy the deficiencies of Mountain, Knudson and Horowitz pointed out above in connection with independent claims 21, 28 and 35, and dependent claims 22, 29 and 36 (from which claims 26, 33 and 39 respectively depend). In particular, like Mountain, Knudson and Horowitz, Gerszberg also fails to disclose or suggest, *inter alia*, the claimed feature of “wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data” as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

Therefore, for at least the foregoing reasons, Applicants submit that claims 26, 33 and 39 are patentable over the proposed combination of Mountain, Knudson, Horowitz and Gerszberg, and withdrawal of the rejection is respectfully requested.

#### **Re: Patentability of Claims 27, 34 and 40**

Claims 27, 34 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mountain in view of Knudson, Horowitz and Gerszberg, and further in view of U.S. Patent No. 6,763,522 issued to Kondo et al. (hereinafter, “Kondo”). Applicants respectfully traverse this rejection for at least the following reasons.

Kondo is unable to remedy the deficiencies of Mountain, Knudson and Gerszberg pointed out above in connection with independent claims 21, 28 and 35, and dependent claims 33 and 39 (from which claims 34 and 40 respectively depend – claim 27 depends from independent claim 21). In particular, like Mountain, Knudson, Horowitz, and Gerszberg, Kondo also fails to disclose or suggest, *inter alia*, the claimed feature of “wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data” as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

Therefore, for at least the foregoing reasons, Applicants submit that claims 27, 34 and 40 are patentable over the proposed combination of Mountain, Knudson, Horowitz, Gerszberg and Kondo, and withdrawal of the rejection is respectfully requested.

### **Conclusion**

In view of the foregoing remarks/arguments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due from this response. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,

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